

Message Text

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SUBJECT: RP CANADA TAX TREATY

THERE FOLLOWS THE TEXT OF ARTICLES (X), (XI), (XII) OF
THE RP CANADA TAX TREATY.

ARTICLE (X) DIVIDENDS

1. DIVIDENDS PAID BY A COMPANY WHICH IS A RESIDENT OF CANADA
TO A RESIDENT OF THE PHILIPPINES MAY BE TAXED IN THE PHILIPPINES.
HOWEVER SUCH DIVIDENDS MAY ALSO BE TAXED IN CANADA, BUT WHERE
THE BENEFICIAL OWNER OF THE DIVIDENDS IS A RESIDENT OF THE
PHILIPPINES, THE TAX SO CHARGED SHALL NOT EXCEED 15 PER CENT
OF THE GROSS AMOUNT OF THE DIVIDENDS.

2. DIVIDENDS PAID BY A COMPANY WHICH IS A RESIDENT OF THE
PHILIPPINES TO A RESIDENT OF CANADA MAY BE TAXED IN CANADA.
HOWEVER, SUCH DIVIDENDS MAY ALSO BE TAXED IN THE PHILIPPINES,
BUT WHERE THE BENEFICIAL OWNER OF THE DIVIDENDS IS A RESIDENT
OF CANADA THE TAX SO CHARGED SHALL NOT EXCEED:

(A) 15 PER CENT OF THE GROSS AMOUNT OF ANY DIVIDEND PAID
TO A COMPANY WHICH IS A RESIDENT OF CANADA WHICH CONTROLS
AT LEAST 10 PER CENT OF THE VOTING POWER OF THE COMPANY
PAYING THE DIVIDEND; OR

(B) 25 PER CENT OF THE GROSS AMOUNT OF THE DIVIDENDS IN
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ALL OTHER CASES.

3. THE PROVISIONS OF PARAGRAPHS 1 AND 2 SHALL NOT AFFECT THE TAXATION OF THE COMPANY ON THE PROFITS OUT OF WHICH THE DIVIDENDS ARE PAID.

4. THE TERM "DIVIDENDS" AS USED IN THIS ARTICLE MEANS INCOME FROM SHARES, "JOUISSANCE" SHARES OR "JOUUSSANCE" RIGHTS, MINING SHARES, FOUNDERS SHARES OR OTHER RIGHTS, NOT BEING DEBT-CLAIMS, PARTICIPATING IN PROFITS, AS WELL AS INCOME ASSIMILATED TO INCOME FROM SHARES BY THE TAXATION LAW OF THE STATE OF WHICH THE COMPANY MAKING THE DISTRIBUTION IS A RESIDENT.

5. THE PROVISIONS OF PARAGRAPHS 1 AND 2 SHALL NOT APPLY IF THE RECIPIENT OF THE DIVIDENDS, BEING A RESIDENT OF A CONTRACTING STATE, CARRIES ON IN THE OTHER CONTRACTING STATE OF WHICH THE COMPANY PAYING THE DIVIDENDS IS A RESIDENT, A TRADE OR BUSINESS THROUGH A PERMANENT ESTABLISHMENT SITUATED THEREIN, OR PERFORMS IN THAT OTHER STATE PROFESSIONAL SERVICES FROM A FIXED BASE SITUATED THEREIN, AND THE HOLDING BY VIRTUE OF WHICH THE DIVIDENDS ARE PAID IS EFFECTIVELY CONNECTED WITH SUCH PERMANENT ESTABLISHMENT OR FIXED BASE. IN SUCH A CASE, THE PROVISIONS OF ARTICLE VII OR ARTICLE XIV, AS THE CASE MAY BE, SHALL APPLY.

6. WHERE A COMPANY IS A RESIDENT OF A CONTRACTING STATE THE OTHER CONTRACTING STATE MAY NOT IMPOSE ANY TAX ON THE DIVIDENDS PAID BY THE COMPANY, EXCEPT INsofar AS SUCH DIVIDENDS ARE PAID TO A RESIDENT OF THAT OTHER STATE OR INsofar AS THE HOLDING IN RESPECT OF WHICH THE DIVIDENDS ARE PAID IS EFFECTIVELY CONNECTED WITH A PERMANENT ESTABLISHMENT OR A FIXED BASE SITUATED IN THAT OTHER STATE, NOR SUBJECT THE COMPANY'S UNDISTRIBUTED PROFITS TO A TAX ON THE COMPANY'S UNDISTRIBUTED PROFITS, EVEN IF THE DIVIDENDS PAID OR THE UNDISTRIBUTED PROFITS CONSIST WHOLLY OR PARTLY OF PROFIT OR INCOME ARISING IN SUCH OTHER STATE.

7. NOTHING IN THIS CONVENTION SHALL BE CONSTRUED AS LIMITED OFFICIAL USE

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PREVENTING A CONTRACTING STATE FROM IMPOSING ON THE EARNINGS OF A COMPANY ATTRIBUTABLE TO A PERMANENT ESTABLISHMENT IN THAT STATE, TAX IN ADDITION TO THE TAX WHICH WOULD BE CHARGEABLE ON THE EARNINGS OF A COMPANY WHICH WOULD BE CHARGEABLE ON THE EARNINGS OF A COMPANY WHICH IS A NATIONAL OF THAT STATE, PROVIDED THAT ANY ADDITIONAL TAX SO IMPOSED SHALL NOT EXCEED 15 PER CENT OF THE AMOUNT OF SUCH EARNINGS WHICH HAVE NOT

BEEN SUBJECTED TO SUCH ADDITIONAL TAX IN PREVIOUS TAXATION YEARS. FOR THE PURPOSE OF THIS PROVISION, THE TERM "EARNINGS" MEANS THE PROFITS ATTRIBUTABLE TO A PERMANENT ESTABLISHMENT IN A CONTRACTING STATE IN A YEAR AND PREVIOUS YEARS AFTER DEDUCTING THEREFROM ALL TAXES, TOHER THAN THE ADDITIONAL TAX REFERRED TO HEREIN, IMPOSEED ON SUCH PROFITS BY THAT STATE.

ARTICLE (XI)
INTEREST

1. INTEREST ARISING IN A CONTRACTING STATE AND PAID TO A RESIDENT OF THE OTHER CONTRACTING STATE MAY BE TAXED IN THAT OTHER STATE.

2. HOWEVER, SUCH INTEREST MAY BE TAXED IN THE CONTRACTION STATE IN WHICH IT ARISES, AND ACCORDING TO THE LAW OF THAT STATE; BUT THE TAX SO CHARGED SHALL, PROVIDED THAT THE INTEREST IS TAXABLE IN THE OTHER CONTRACTING STATE, NOT EXCEED 15 PER CENT OF THE GROSS AMOUNT OF THE INTEREST.

3. THE TERM "INTEREST" AS USED IN THIS ARTICLE MEANS INCOME FROM DEBT-CLAIMS OF EVERY KIND, WHETHER OR NOT SECURED BY MORTGAGE, AND WHETHER OR NOT CARRYING A RIGHT TO PARTICIPATE IN THE DEBTOR'S PROFITS, AND IN PARTICULAR, INCOME FROM GOVERNMENT SECURITIES AND INCOME FROM BONDS OR DEBENTURES, INCLUDING PREMIUMS AND PRIZES ATTACHING TO SUCH SECURITIES, BONDS OR DEBENTURES, AS WELL AS INCOME ASSIMILATED OF INCOME FROM MONEY LENT BY THE TAXATION LAW OF THE STATE IN WHICH THE INCOME ARISES. HOWEVER, THE TERM "INTEREST" DOES NOT INCLUDE INCOME DEALT WITH IN ARTICLE X.

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4. THE PROVISIONS OF PARAGRAPH 2 SHALL NOT APPLY IF THE RECIPIENT OF THE INTEREST, BEING A RESIDENT OF A CONTRACTING STATE, CARRIES ON IN THE OTHER CONTRACTING STATE IN WHICH THE INTEREST ARISES A TRADE OR BUSINESS THROUGH A PERMANENT ESTABLISHMENT SITUATED THEREIN, OR PERFORMS IN THAT OTHER STATE PROFESSIONAL SERVICES FROM A FIXED BASE SITUATED THEREIN, AND THE DEBT-CLAIM IN RESPECT OF WHICH THE INTEREST IS PAID IS EFFECTIVELY CONNECTED WITH SUCH PERMANENT ESTABLISHMENT OR FIXED BASE. IN SUCH A CASE, THE PROVISIONS OF ARTICLE (VII) OR ARTICLE (XIV), AS THE CASE MAY BE, SHALL APPLY.

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5. INTEREST SHALL BE DEEMED TO ARISE IN A CONTRACTING STATE WHEN THE PAYER IS THAT STATE ITSELF, A POLITICAL SUBDIVISION, A LOCAL AUTHORITY OR A RESIDENT OF THAT STATE. WHERE, HOWEVER, THE PERSON PAYING THE INTEREST, WHETHER HE IS A RESIDENT OF A CONTRACTING STATE OR NOT, HAS IN A CONTRACTING STATE A PERMANENT ESTABLISHMENT OR A FIXED BASE IN CONNECTION WITH WHICH THE INDEBTEDNESS ON WHICH THE INTEREST IS PAID WAS INCURRED, AND THAT INTEREST IS BORNE BY THAT PERMANENT ESTABLISHMENT OR FIXED BASE, THEN SUCH INTEREST SHALL BE DEEMED TO ARISE IN THE CONTRACTING STATE IN WHICH THE PERMANENT ESTABLISHMENT OR FIXED BASE IS SITUATED.

6. WHERE, OWING TO A SPECIAL RELATIONSHIP BETWEEN THE PAYER AND THE RECIPIENT OR BETWEEN BOTH OF THEM AND SOME OTHER PERSON, THE AMOUNT OF THE INTEREST PAID, EXCEEDS THE AMOUNT WHICH WOULD HAVE BEEN AGREED UPON BY THE PAYER AND THE RECIPIENT IN THE ABSENCE OF SUCH RELATIONSHIP, THE PROVISIONS OF THIS ARTICLE SHALL APPLY ONLY TO THE LAST-MENTIONED AMOUNT. IN THAT CASE, THE EXCESS PART OF THE PAYMENTS SHALL REMAIN TAXABLE ACCORDING TO THE LAW OF EACH CONTRACTING STATE, DUE REGARD BEING HAD TO THE OTHER PROVISIONS OF THIS CONVENTION.

7. NOTWITHSTANDING THE PROVISIONS OF PARAGRAPH 2,
(A) INTEREST ARISING IN A CONTRACTING STATE AND PAID IN RESPECT OF A BOND, DEBENTURE OR OTHER SIMILAR OBLIGATION
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OF THE GOVERNMENT OF THAT CONTRACTING STATE OR OF A POLITICAL SUBDIVISION OR LOCAL AUTHORITY THEREOF SHALL, PROVIDED THAT THE INTEREST IS BENEFICALLY OWNED BY A RESIDENT OF THE OTHER CONTRACTING STATE, BE TAXABLE ONLY IN THAT OTHER STATE;

(B) INTEREST ARISING IN THE PHILIPPINES AND PAID TO A RESIDENT OF CANADA SHALL BE TAXABLE ONLY IN CANADA IF IT IS PAID IN RESPECT OF A LOAN MADE, GUARANTEED OR INSURED, OR A CREDIT EXTENDED, GUARANTEED OR INSURED BY THE EXPORT DEVELOPMENT CORPORATION;

(C) (C) INTEREST ARISING IN CANADA AND PAID TO A RESIDENT OF THE PHILIPPINES SHALL BE TAXABLE ONLY IN THE PHILIPPINES IF IT IS PAID IN RESPECT OF A LOAN MADE, GUARANTEED OR INSURED, OR A CREDIT EXTENDED, GUARANTEED OR INSURED BY SUCH LENDING INSTITUTION AS IS SPECIFIED AND AGREED IN LETTERS EXCHANGED BETWEEN THE COMPETENT AUTHORITIES OF THE CONTRACTING STATES; AND

(D) THE PHILIPPINE TAX ON INTEREST ARISING IN THE PHILIPPINES IN RESPECT OF PUBLIC ISSUES OF BONDS, DEBENTURES OR SIMILAR OBLIGATIONS AND PAID BY A COMPANY WHICH IS A RESIDENT OF THE PHILIPPINES TO A RESIDENT OF CANADA SHALL NOT EXCEED 10 PERCENT OF THE GROSS AMOUNT OF THE INTEREST.

ARTICLE (XII)
ROYALTIES

1. ROYALTIES ARISING IN A CONTRACTING STATE AND PAID TO A RESIDENT OF THE OTHER CONTRACTING STATE MAY BE TAXED IN THAT OTHER STATE.

2. SUCH ROYALTIES MAY ALSO BE TAXED IN THE CONTRACTING STATE IN WHICH THEY ARISE AND ACCORDING TO THE LAW OF THAT STATE, HOWEVER, THE TAX SO CHARGED SHALL, PROVIDED THAT THE ROYALTIES ARE TAXABLE IN THE OTHER CONTRACTING STATE, NOT EXCEED

(A) IN CANADA, 10 PER CENT OF THE GROSS AMOUNT OF THE ROYALTIES, AND

(B) IN THE PHILIPPINES, THE LESSER OF

(I) 25 PER CENT OF THE GROSS AMOUNT OF THE ROYALTIES, AND
(II) THE LOWEST RATE OF PHILIPPINE TAX THAT MAY BE IMPOSED
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ON ROYALTIES OF THE SAME KIND PAID IN SIMILAR CIRCUMSTANCES TO A RESIDENT OF A THIRD STATE.

3. THE TERM "ROYALTIES" AS USED IN THIS ARTICLE MEANS

PAYMENT OF ANY KIND RECEIVED AS A CONSIDERATION FOR THE USE OF, OR THE RIGHT TO USE, ANY COPYRIGHT, PATENT, TRADEMARK, DESIGN OR MODEL, PLAN, SECRET FORMULA OR PROCESS, OR FOR THE USE OF, OR THE RIGHT TO USE, INDUSTRIAL, COMMERCIAL OR SCIENTIFIC EQUIPMENT, OR FOR INFORMATION CONCERNING INDUSTRIAL, COMMERCIAL OR SCIENTIFIC EXPERIENCE, AND INCLUDES PAYMENTS OF ANY KIND IN RESPECT OF MOTION PICTURE FILMS AND WORKS ON FILMS OR VIDEOTAPES FOR USE IN CONNECTION WITH TELEVISION.

4. ROYALTIES SHALL BE DEEMED TO ARISE IN A CONTRACTING STATE WHEN THE PAYER IS THAT STATE ITSELF, A POLITICAL SUBDIVISION, A LOCAL AUTHORITY OR A RESIDENT OF THAT STATE. WHERE, HOWEVER, THE PERSON PAYING THE ROYALTIES, WHETHER HE IS A RESIDENT OF A CONTRACTING STATE OR NOT, HAS IN A CONTRACTING STATE A PERMANENT ESTABLISHMENT OR FIXED BASE IN CONNECTION WITH WHICH THE OBLIGATION TO PAY THE ROYALTIES WAS INCURRED, AND THOSE ROYALTIES ARE BORNE BY THAT PERMANENT ESTABLISHMENT OR FIXED BASE, THEN SUCH ROYALTIES SHALL BE DEEMED TO ARISE IN THE CONTRACTING STATE IN WHICH THE PERMANENT ESTABLISHMENT OR FIXED BASE IS SITUATED.

5. WHERE, OWING TO A SPECIAL RELATIONSHIP BETWEEN THE PAYER AND THE RECIPIENT OR BETWEEN BOTH OF THEM AND SOME OTHER PERSON, THE AMOUNT OF THE ROYALTIES PAID, HAVING REGARD TO THE USE, RIGHT OR INFORMATION FOR WHICH THEY ARE PAID, EXCEEDS THE PAYER AND THE RECIPIENT IN THE ABSENCE OF SUCH RELATIONSHIP, THE PROVISIONS OF THIS ARTICLE SHALL APPLY ONLY TO THE LAST-MENTIONED AMOUNT. IN THAT CASE, THE EXCESS PART OF THE PAYMENTS SHALL REMAIN TAXABLE ACCORDING TO THE LAW OF EACH CONTRACTING STATE DUE REGARD BEING HAD TO THE OTHER PROVISIONS OF THIS CONVENTION.

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